



1 Declaration of John W. Howard set forth below.  
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4 **DECLARATION OF JOHN W. HOWARD**

5 I, John W. Howard declare as follows:

6 1. I am an attorney at law licensed to practice in the State of California and all federal  
7 courts in the State of California and am employed by J.W. Howard Attorneys, Ltd., attorneys  
8 for plaintiff, Van Phillips. I have personal knowledge of the following facts stated in this  
9 declaration. If called as a witness, I would and could competently testify to the following facts:

10 2. This case was filed on June 22, 2007. Defendants were served with the  
11 summons and complaint on July 6, 2007. At that time, the Court scheduled certain deadlines as  
12 set forth in Exhibit "A." Exhibit "A" is a true and correct copy of this Court's Order Setting  
13 Initial Case Management Conference and ADR Deadlines. Currently, there are two deadline  
14 dates and the initial case management conference set for September 2007. The Court has not  
15 granted any time modifications prior to the instant request which is the first.  
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17 3. Following service of the complaint, I have been communicating with the  
18 attorney for John Diamond and Diamond Phillips' attorney, Jeff Oritt. Since that time, we have  
19 discussed how to best resolve this case so as to avoid further litigation.  
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21 4. I believe Mr. Oritt and I are making progress toward a solution to this case.  
22 Plaintiff's complaint contains claims for an accounting and unjust enrichment. Essentially,  
23 plaintiff seeks to determine whether defendants owe him money related to the purchase of  
24 doors and windows. Negotiations have so far resulted in the defendants providing some, if not  
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1 all, of the supporting documentation for those constructions materials which are vital to  
 2 plaintiff's claims.

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 4 5. Due to the settlement negotiations, defendants have not answered the complaint  
 5 and have not yet retained a California attorney who is admitted to practice in the Northern  
 6 District. Attorney Jeff Oritt is licensed to practice in Utah only.

7 6. Mr. Oritt is in favor of postponing the court's current deadlines to enable to  
 8 parties additional time to negotiate a resolution. However, he is unable to sign and submit a  
 9 stipulation because he is not licensed to practice in California or in the Northern District Court.

10 7. Plaintiff proposes to change the following deadlines as set forth and described in  
 11 detail in Exhibit "A".

<u><b>Current Deadline Date /(Description)</b></u>	<u><b>Proposed New Deadline Date</b></u>
September 7, 2007 (Meet & Confer/ADR Form)	October 17, 2007
September 21, 2007 (File Reports)	October 31, 2007
September 28, 2007 (Initial Case Mngmt Conf.)	November 7, 2007

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 18 8. The effect of the requested time modification would only postpone the currently  
 19 set deadlines by approximately five weeks, which would not have a significant affect on the  
 20 schedule for the case.  
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1           9.       If the Court is unable to grant the enlargement of time as proposed above, the  
2 parties will be harmed in that their informal settlement negotiations will be severely  
3 undermined. The incentive to settle is to settle the dispute before incurring the attorney's fees  
4 necessary to comply with the court's imposed deadlines and FRCP Rule 26 requirements.  
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6           10. The plaintiff is defendant John Diamond's brother in law and the family dynamic is  
7 implicated in the current negotiations. It is important that those negotiations be given the  
8 latitude to succeed. That is why we are requesting that this Court grant the instant motion.  
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10           I declare under penalty of perjury under the laws of the State of California that the  
11 foregoing is true and correct and that this declaration was executed on this 5<sup>th</sup> day of September  
12 2007 at San Diego, California.  
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15 John W. Howard  
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